

MONTANA LEGISLATIVE HISTORY

Chapter 48 19 77

Bill H 234 S _____ Original bill & history C

H. Committee on	<u>Agriculture, Livestock + Irrigation</u>	S. Committee on	<u>Agriculture, Livestock + Irrigation</u>
Hearing Date(s)	<u>Feb 08</u> ✓ <u>C</u>	Hearing Date(s)	<u>Mar 08</u> ✓ <u>C</u>
	_____ <u>C</u>		_____ <u>C</u>
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	_____ <u>C</u>		_____ <u>C</u>
Date Out	<u>Feb 08</u> ✓ <u>C</u>		<u>Mar 08</u> ✓ <u>C</u>

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

1 H BILL NO. 238 *William*
2 INTRODUCED BY *Robbins - Hurwitz* *Bington* *Scully*
3 *MULAR Conroy* *Melby* *Dawson* *Bentley*
4 A BILL FOR AN ACT ENTITLED: *Doyle* *Barrett* *Cook*
5 FOR FIXING AND REVIEWING RATES CHARGED BY MUNICIPALITIES FOR
6 SERVICE FROM MUNICIPALLY OWNED WATER AND SEWER SYSTEMS AND
7 AMENDING SECTION 70-113, R.C.M. 1947, WITH RESPECT TO THE
8 POWERS OF THE PUBLIC SERVICE COMMISSION."
9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 Section 1. Establishment of rates for water and sewer
12 service. (1) Rates for water and sewer service for systems
13 owned and operated by any municipality in this state may be
14 established and revised by ordinance only after published
15 notice and public hearing. The notice must be published on
16 at least one occasion not less than 2 weeks before the
17 public hearing in a newspaper of general circulation in the
18 county in which the municipality is located or, lacking such
19 a newspaper, in a newspaper considered by the governing body
20 most likely to give notice in the municipality.
21 (2) After adoption or revision of rates, 15% of the
22 electors of the municipality may file with the district
23 court of the county where the municipality is located a
24 petition for a writ of review, alleging that the effect of
25 the rates is unreasonable or that they are unjustly

1 discriminatory. The district court shall, after a hearing,
2 file its findings and determinations. If the findings and
3 determinations conclude that the rates are unreasonable or
4 unjustly discriminatory, the local government shall amend
5 the rates so as to remove any unreasonable or unjustly
6 discriminatory features found by the court.
7 (3) Except as provided in this section, local
8 government is subject to the jurisdiction of the public
9 service commission as established by chapter 1 of Title 70.
10 Section 2. Section 70-113, R.C.M. 1947, is amended to
11 read as follows:
12 "70-113. Schedules of rates, tolls, and charges. (1)
13 Every public utility shall file with the commission, within
14 a time fixed by the commission, schedules which shall be
15 open to public inspection, showing all rates, tolls, and
16 charges which it has established, and which are in force at
17 the time, for any service performed by it within the state,
18 or for any service in connection therewith, or performed by
19 any public utility controlled or operated by it. The rates,
20 tolls, and charges shown on such schedules shall not exceed
21 the rates, tolls, and charges in force at the time of
22 passage of this act. Every public utility shall file with,
23 and as a part of such schedule, all rules and regulations
24 that in any manner affect the rates charged or to be charged
25 for any service. A copy of so much of said schedule as the

1 commission shall deem necessary for the use of the public
2 shall be printed in plain type, and kept on file in every
3 station or office of such public utility, where payments are
4 made by the consumers or users, open to the public, in such
5 form and place as to be readily accessible to the public,
6 and as can be conveniently inspected.

7 (2) When a schedule of joint rates or charges is or
8 may be in force between two or more public utilities, such
9 schedule shall in like manner be printed and filed with the
10 commission, and so much thereof as the commission shall deem
11 necessary for the use of the public shall be filed in every
12 such station or office as prescribed in the first paragraph
13 of this section.

14 (3) No change shall thereafter be made in any
15 schedule, including schedules of joint rates, except as
16 approved by the commission. Before it may approve any
17 change increasing the rate or rates for utility service in a
18 schedule generally affecting consumers in a utility's
19 service area, the commission shall publish a notice of the
20 proposed change, conforming to the requirements of section
21 82-4209(2), in one or more newspapers published and of
22 general circulation within the area affected by the proposed
23 change. This notice shall announce a hearing on the
24 proposed change and shall inform interested persons how they
25 may petition the commission to become parties to the

1 hearing. The commission shall proceed to conduct the
2 hearing under the Administrative Procedure Act. The
3 consumer counsel may in his discretion petition to become a
4 party to the hearing.

5 (4) Notwithstanding any provision of this title to the
6 contrary, the final decision of the commission in any matter
7 decided after a hearing conducted pursuant to this section
8 shall conform to the requirements of a decision in a
9 contested case under the Administrative Procedure Act. The
10 commission may temporarily approve an increase pending a
11 hearing and final decision. If the final decision is to
12 disapprove the increase, the commission shall order a rebate
13 to all consumers for the amount collected retroactive to the
14 date of the temporary approval.

15 (5) Rates for water and sewer supply and distribution
16 services provided by municipalities shall be established as
17 provided by [section 1 of this act] and are not subject to
18 this section."

-End-

January 11, 1977 MINUTES OF THE MEETING OF
HOUSE AGRICULTURE, LIVESTOCK AND IRRIGATION COMMITTEE
MONTANA HOUSE OF REPRESENTATIVES

February 8, 1977
3:30 p.m.

Rm. 434
State Capitol Bldg.

The meeting was called to order by Chairman Day, with all members present except, Representatives Bengtson and Smith, excused and arriving later.

Representative Johnston, chief sponsor of HB 234, explained that this bill was a request from the Department of Agriculture. Most of the changes made in the bill were to clarify the language. One major change in the bill is on page 5, where the new material inserted includes each truck or tractor-trailer unit where or in which grain is merchandised, where a separate license is required other than for each place of business.

Representative Johnston closed with a do pass recommendation.

Representative Gunderson, chief sponsor of HB 344, explained that HB 344, was the Family Farm Act of 1977. He stated that this act was more necessary than before when introduced by Wallace Edland in 1973. The Family Farm Act was subject to controversy in the past but this one piece of legislation is necessary to the family farm unit for survival in Montana. Attached is a prepared statement by Representative Gunderson explaining each section of the bill and what it would do. Also, attached are answers to some of the common questions and complaints raised by opponents of the Family Farm Act.

Senator Jergeson, proponent to HB 344, explained the attached table concerning the corporate control of some food items (1970), and the 1974 sales of the Del Monte Corporation and where they came from. Also he read the attached menu to explain where agricultural products are going to. The Senator continued, that corporations could decrease the value of farm lands because of their power to hold their prices for a longer period of time than the small farmer and rancher can. Similar Family Farm Acts have been passed in surrounding states and the values of the lands have increased. The following are some figures presented, of the increases in these states;

	past year	past five years
Kansas	15%	132%
Iowa	33%	207%
Minnesota	24%	165%

Montana rating on this scale 14% to 119%, North Dakota, compared 14% for the past year. North Dakota's law is more restricted than the proposed HB 344. Montana's law would be more like the other states. He concluded by stating without the passage of this bill these large corporations could take over. They would not be likely to buy their farm machinery and other farm supplies from the surrounding communities, therefore what would happen to the

February 8, 1977

Minutes, 8, 1977

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Miss leading farm and ranchers to adequate credit for their farm operation as made and expected to be done.

Representative Gunderson closed by turning questions and comments over to Senator Jergeson. The senator pointed out that this Bill would not omit the coal companies from their surface rights, only from engaging in agricultural production. This bill will not stop the growth of agriculture in Montana. You will still be able to buy agricultural lands for the purpose of recreation this bill does not prevent that. He concluded his comments by stating his father had attended a farm bureau convention and nothing of this act was mentioned but a representative from there is here opposing the bill. The Senator urged the support of the committee to do pass HB 344.

Questions were raised such as does this bill infringe on the personal property rights of the individual? Reply; No, It only limits your sales to a corporation with 5 million dollars in assets other than agriculture. Could sell to your neighbor or others who engage in agriculture for any price.

Would this bill lower the land value and force the farmer to take less than he wishes? No, U.S. News and World Report shows that other states don't have lower land value because of the Family Farm Act.

The hearing on HB 344 was closed and the committee went into executive session.

Representative Johnston moved HB 234, do pass. It was seconded by Representative Staigmler. The motion was passed unanimously.

Representative Dassinger moved HB 246, be taken off the table. It was seconded by Representative Severson. The motion was passed unanimously.

Representative Dassinger moved HB 246, do pass. It was seconded by Representative Gunderson. The motion was passed 8 to 5.

Representative Dassinger moved HB 252, be amended as proposed. It was seconded by Representative Staigmler. The motion was passed unanimously. (amendments attached)

Representative Dassinger moved HB 252, do pass as amended. It was seconded by Representative Gunderson.

A substitute motion was made by Representative Ellerd and seconded by Representative Johnston that HB 252, do not pass as amended.

Representative Dassinger moved all motions pending HB 252, be tabled. The motion failed 9 to 4.

The substitute motion to do not pass as amended was voted on and passed 9 to 4.

March 4, 1977

MINUTES OF THE MEETING

CONS. AGRICULTURE, LIVESTOCK & IRRIGATION
MONTANA STATE SENATE
Representative Williams, district 70 was the sponsor of this bill. The purpose of this bill is to give the Department of Agriculture the power to establish rates for storage and handling of grain in public warehouses in the state. March 4, 1977

The twenty-first meeting of the Agriculture, Livestock and Irrigation Committee was called to order on the above date in Room 415 of the State Capitol Building by Chairman Graham at 9:30 a.m.

ROLL CALL: All members were present. Senator Dover arriving late from another meeting.

The following witnesses were present to testify:

George Lackman said they would like to see the elevators stay.
Representative Ageson sponsor under federal regulation.
George Lackman said the Dept. of Agriculture Repr. Johnstone said the sponsor has the authority to establish an elevator.
Representative Williams an elevator doesn't add to Chris Johansen Mont. Grain Elevators
R. F. Denison " " "
Elroy Letcher followed by the Mont. Council of Coops.
Perry Schaefer Mont. Grain Elevators

Senator Kolstad moved that this bill be held until the next meeting. Seconded by Senator Dover. Motion carried.

CONSIDERATION OF HOUSE JOINT RESOLUTION 49: Representative Ageson, district 9, was sponsor of this bill. This bill protests the federal grain inspection supervisory fee which the federal government started charging back to the state. There are bills in the Congress to do away with this charge back and this resolution just shows Montana's support.

George Lackman said it costs about \$35,000 per year for this increased inspection. The inspector has to be federally inspected and the inspector comes into the state about 4 times a year.

DISPOSITION OF HOUSE JOINT RESOLUTION 49: Senator Kolstad moved that House Joint Resolution 49 BE CONCURRED IN. Seconded by Senator Jergeson. Motion carried. Senator Dover absent.

CONSIDERATION OF HOUSE BILL 234: Representative Johnston introduced this bill at the request of the Department of Agriculture. This is just a housekeeping bill which clears up some language in the bill. The one substantial change is on page 5, on the licensing of a tractor and trailer for \$15.

George Lackman said the license change had been deleted by mistake a few years ago and this bill merely puts it back in.

DISPOSITION OF HOUSE BILL 234: Senator Jergeson moved that House Bill 234 BE CONCURRED IN. Seconded by Senator Kolstad. Motion carried.

SENATE

ROLL CALL

DATE

34.535

AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE

45th LEGISLATIVE SESSION - - 1976

Date

3/4

NAME

PRESENT

ABSENT

EXCUSED

SENATOR GALT - V. Chairman

✓

SENATOR ABER

✓

SENATOR BERGREN

✓

SENATOR BOYLAN

✓

SENATOR DOVER

10:20
✓

SENATOR HAGER

✓

SENATOR JERGESON

✓

SENATOR KOLSTAD

✓

SENATOR MANLEY

✓

SENATOR GRAHAM - CHAIRMAN

✓

SENATE

Agriculture COMMITTEE

BILL

234, 535

MONTANA VISITORS' REGISTER

DATE

3-4

GRAIN ELEVATOR

Please note bill no.

(check one)

NAME

REPRESENTING

BILL #

SUPPORT

OPPO

Harry B. Lech

Garneill Elev. Co

HJR 49

✓

George Lachman

Dist. 49

HJR 49

✓

" "

" "

234

✓

" "

" "

535

✓

J. M. Williams

Legislator

535

✓

Chris Johnson

Mont. Grain Elev. Co

535

✓

Th. F. Johnson

" " " "

535

✓

Dick Karam

" " " "

535

✓

Larry Schaefer

" " " "

535

✓

ELROY LETCHER

MONTANA COUNCIL OF COOPS

535

✓

George R. Johnson

St. Alb. Elev. #13

234

✓

David Hagason

Legislator

HJR 49

✓

Debbie Gravelley

Circle High School Circle

Visitor

John Gravelley

Visitor (Grain Farmer)

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

STANDING COMMITTEE REPORT

March 3

1977

MR. PRESIDENT

We, your committee on AGRICULTURE, LIVESTOCK & IRRIGATION

having had under consideration HOUSE Bill No. 234

Respectfully report as follows: That HOUSE Bill No. 234

BE CONCURRED IN
H. PASS

GRAHAM

Chairman.

INTERMINGLED WITH NATIVE STOCK; AMENDING SECTION 46-801.1, R.C.M. 1947.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-801.1, R.C.M. 1947, is amended to read as follows:

"46-801.1. Definitions. Unless the context requires otherwise, in 46-801.2 through 46-806, the following definitions apply:

(1) "Livestock" means a cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal, or filly.

(2) "State stock inspector" means an employee of the department of livestock designated by the department as a state stock inspector.

(3) "Deputy state stock inspector" means a person designated by the department as a deputy state stock inspector, who does not receive a salary or compensation from the department.

(4) "Person" means an individual, partnership, corporation, association, or any entity not enumerated capable of owning or controlling livestock."

Section 2. There is a new R.C.M. section numbered 46-801.5 that reads as follows:

46-801.5. Importation of livestock — notice to department — inspection. (1) Except as provided in subsections (2) and (3) of this section, any person owning livestock imported into this state or his agent must notify the department or a salaried employee of the department of the number, breed, type, and age of the livestock, their location, and the purpose for which they have been brought into the state. Such notification shall be made within 48 hours after the arrival of the livestock in the state. Livestock so moved may not be commingled with any livestock already in Montana until inspected for brands and marks in daylight by a state stock inspector or deputy state stock inspector. The fees for this inspection shall be the same as those imposed for county line or change of ownership inspections. The fees paid to state stock inspectors shall be remitted to the department for deposit in the earmarked revenue fund for the use of the department.

(2) Livestock consigned to a licensed livestock market or for immediate slaughter to a licensed slaughter facility at which pre-slaughter inspection is maintained are exempt from the requirements of this section.

(3) Livestock moved between Montana and an adjacent state for graze on a regular basis and as part of the usual operation of a farm or ranch shall be exempt from the notice and inspection requirements of this section provided a transportation permit for the entry of the livestock into Montana has been obtained by the owner or his agent from a state stock inspector prior to the entry of the livestock into Montana. The fee for the permit shall be \$5 which shall be remitted by the department to the state treasury for credit to the earmarked revenue account of the depart-

ment. The department shall provide by rule for the issuance and control of transportation permits authorized by this subsection.

Approved March 18, 1977.

CHAPTER NO. 42

AN ACT TO REPEAL THE ABORTION COUNSELORS AND COUNSELING SERVICES ACT, SECTIONS 69-6901 THROUGH 69-6908, R.C.M. 1947.

Be it enacted by the Legislature of the State of Montana:

Section 1. **Repealer.** Sections 69-6901 through 69-6908, R.C.M. 1947, are repealed.

Approved March 18, 1977.

CHAPTER NO. 43

AN ACT TO AMEND THE LAW RELATING TO GRAIN STANDARDS, STORAGE, AND INSPECTION AND REGULATION OF GRAIN WAREHOUSEMEN; AMENDING SECTIONS 3-209, 3-227, 3-228.1, 3-228.2, R.C.M. 1947.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 3-209, R.C.M. 1947, is amended to read as follows:

"3-209. Establishment of standard grain grades — procedure. (1) The department shall establish standard grades to apply to all grain bought or handled by public warehouses in this state. The department shall adopt as state grade standards all grades for grain established by the United States department of agriculture. Standards for grain shall be established by the department after notice and a public hearing. Notice shall be published in three newspapers of the state at least 20 days before the hearing.

(2) Grade standards, or any alteration or modification of those standards which the department may establish, are not effective until 30 days after publication, except for grades established by the United States department of agriculture, which are effective 10 days after publication.

(3) The grain standards adopted by the department do not apply to grain contracted for before their effective date."

Section 2. Section 3-227, R.C.M. 1947, is amended to read as follows:

"3-227. Reports — penalty for failure to report. Every person licensed to merchandise grain shall make regular reports to the department, under oath, at intervals set by rule of the department, and on forms pre-

pared by it. The reports shall show the total weight of each kind of grain received and shipped, the amount of outstanding storage receipts on that date, and a statement of the amount of grain on hand to cover them. The department may also require by rule special reports at any time. The department may inspect the business of every person licensed to merchandise grain, whenever considered proper. The books, accounts, records, papers, and proceedings of every person licensed to merchandise grain are at all times during business hours subject to inspection. A person who knowingly falsifies any of his reports to the department, who fails to make the reports when requested by the department, or who refuses or resists inspection is guilty of a misdemeanor and shall be fined not less than \$300 or more than \$500."

Section 3. Section 3-228.1, R.C.M. 1947, is amended to read as follows:

"3-228.1. Definitions. Unless the context requires otherwise, as used in this act:

(1) "Person" means any person, merchandiser, grain dealer, firm, public warehouseman, commercial feed lot operator, trucker, exchange, broker, partnership, corporation, organization, commissionman, trust, association of persons, track buyer, shipper, hauler, contractor, cash buyer, unincorporated association, municipality, or society, however formed.

(2) "Grain" includes the natural products of the farm including flax.

(3) "Haul" means to transport grain or farm products by any vehicle on land or on water.

(4) "Merchandise" means to store, sell, buy, haul, ship, contract, cause a contract to be let, trade, carry on commerce, traffic, aid and distribute, abet in the movement of any commodity, and assemble and distribute farm products or grain.

(5) "For hire" means for remuneration of any kind, paid or promised either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements whereby a remuneration is obtained or derived for transportation service. Transportation by a person not in the transportation business is not a service for hire, even though the person owning the property transported shares in the cost or pays for the movement.

(6) "Department" means department of agriculture."

Section 4. Section 3-228.2, R.C.M. 1947, is amended to read as follows:

"3-228.2. Licensing of grain merchandisers — fees — exemptions.

(1) A person may not merchandise grain without obtaining a license under this act and without obtaining a certificate of authority if that certificate is required under 15-2363.

(2) Licenses to engage in the business of merchandising of grains shall be issued by the department to reputable persons who apply in writing, submit the scheduled fee, and set forth under oath the place where the applicant intends to carry on the business for which the license is desired.

A separate license is required for each place of business and for each truck or tractor-trailer unit where or in which grain is merchandised. Each vehicle or vessel used shall be noted on the application.

(3) A person merchandising grain shall before July 1 pay the department a minimum license fee of \$15 for each year or part of a year, for each place of business and for each truck or tractor-trailer unit owned, operated, or conducted by that person where or in which grain is merchandised. The department may by rule establish the license fees, which may be graduated according to the volume of business conducted by a licensee and which shall bear a reasonable relationship to the cost of administering this act and section 3-229.

(4) All license fees shall be transmitted to the state treasurer, and shall be deposited in the general fund.

(5) All licenses expire on June 30 of each year.

(6) A person is exempt from the licensing requirement of this section if he:

(a) is a producer or a feed lot operator within Montana who buys and hauls grain for his own use, in his own vehicle, for his own livestock or his farm;

(b) hauls grain for hire, does not acquire title, and is hauling from an elevator or public warehouse previously licensed;

(c) hauls grain for hire for a producer or feed lot operator for the producer's or feed lot operator's own use within Montana, and does not acquire title to the grain;

(d) is a custom combiner hauling grain that he himself combines."

Approved March 18, 1977.

CHAPTER NO. 44

AN ACT TO AMEND THE LIVESTOCK AUCTION MARKET LAW TO REMOVE THE REQUIREMENT THAT MARKETS PAY AT LEAST 75% OF THE COST OF LIVESTOCK INSPECTION SERVICES PROVIDED AT THE MARKET BY THE DEPARTMENT OF LIVESTOCK; AMENDING SECTIONS 46-909 AND 46-912, R.C.M. 1947; AND REPEALING SECTION 46-910, R.C.M. 1947.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-909, R.C.M. 1947, is amended to read as follows:

"46-909. Hearing and procedure — limitation upon issuance of certificates. (1) Upon the filing of the application, the board shall fix a time and place for a hearing thereon, which shall not be less than 10 days after the filing. The board shall have a copy of the application and notice of hearing thereon served by mail upon: (a) the operators of any